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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,736	09/19/2005	Per-Ola Vallebrant	2802-521-003 US	4780

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EXAMINER	
SELF, SHELLEY M	
ART UNIT	**PAPER NUMBER**
3725	

MAIL DATE	DELIVERY MODE
10/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/549,736	VALLEBRANT ET AL.	
	Examiner	Art Unit	
	Shelley Self	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 11-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 11-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 September 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed on August 9, 2007 has been considered but is ineffective to overcome the prior art reference and an action on the merits follows.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-9 (as noted in the previous Office Action) and claims 11-17 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/549729 and claims 1-10 of copending Application No. 10/549728. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are drawn to the same scope and subject matter,

i.e., the co-pending applications have a scope drawn to an arrangement for controlling a drive unit/motor including flow/control valves.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-9 and 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner notes the claims are written more in the form of an Abstract as opposed to a proper apparatus claim, i.e., "to and fro", to and fro what? Clarification is required. With regard to claims 4 and 11 it is unclear if Applicant is claiming a hydraulic system, i.e. circuitry or the hardware and hydraulic system combination. For example, the claim states, "An arrangement for controlling two drive units...one unit comprises a hydraulically driven motor...the second unit being adapted to perform..." it is unclear how the first and second units are operably connected and how the arrangement controls both drive units. Additionally regarding claim 4, it is not clear if the main duct is within the motor or if the main duct is through the motor or outside, i.e. extending external to the motor. Clarification is required.

Further regarding claim 4 no inlet or outlet has been positively recited, such is listed only as a functional recitation and intended use. Accordingly it is not clear what structure includes the inlet or the outlet, i.e., the motor, first or second drive unit. Also it is not clear as to whether

or not the first drive unit encompasses the motor or if the motor is merely a part/element of the first drive unit. Clarification is required.

With regard to claims 1-9, it is not clear to what the one or more valve are operably connected. For example, are the valves operably connected to the motor or the main duct? The second drive unit.

The failure to positively recite all critical interrelationships between mechanical structures renders a clear understanding of the claimed invention difficult. For example, failure to positively recite to what the valves are operably connected to results in confusion regarding claim 5 wherein structure as it relates to the valve is recited but it is not clear to what positively recited element/limitation of the parent claim the structure of the valve relates. Although claim 5 has not been further treated on the merits the claim as presently presented is not deemed allowable.

Applicant is required to positively recite all critical interrelationships and mechanical cooperation between the elements.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-9 as best as can be understood are rejected under 35 U.S.C. 102(e) as being anticipated by Brown (6,986,368). With regard to claims 1-4, 6, 7 and 11-17, Brown discloses an arrangement, one drive unit comprises a hydraulically driven motor (28, 72) forming part of a hydraulic system (fig. 1) in which hydraulic fluid (23) forms a main flow through a main duct (fig. 1) in which the motor is connected, one or more valves (fig. 1) a flow control valve (42, 80, 88, 94, 104, 114, 120; col. 4,lines 19-24) and a second drive unit comprising a hydraulic piston cylinder (52a, 52b) wherein the first and second drive units are adapted to drive a working unit (fig. 1, 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 8 and 9 as best as can be understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6,986,368) in view of Timperi et al. (6,041,683) or in view of Johnson (4,722,258) or in view of McCallum (2,795,933). Brown discloses the use of a saw carriage (50). Brown is silent to the type of saw the saw carriage includes. Timperi, Johnson and McCallum each teach in a similar art a hydraulic controlling system for controlling driving units of a working unit the working unit including a saw chain and guide bar. Because the references are from a similar art and deal with similar problem; control of a working unit including a hydraulic system for driving the working unit it would have been obvious at the time of the

invention to one having ordinary skill in the art to construct Brown's saw carriage of a saw chain and guide bar so as to efficiently cut lumber as taught by Timperi, Johnson and McCallum respectively.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

The objection to the drawings noted in the Previous Office Action was inadvertent, accordingly the objection is withdrawn.

Conclusion

Due to the new grounds of rejection, not necessitated by the amendment this Office Action is made non-Final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shelley Self/
Primary Examiner
Art Unit 3725

October 23, 2007